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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,346	12/12/2003	James Harold Gray	BS02286	3779
7590 Scott P Zimmerman PLLC P O Box 3822 Cary, NC 27519				
05/02/2008				
EXAMINER				
AUSTIN, SHELTON W				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/735,346

Applicant(s)

GRAY ET AL.

Examiner

Shelton Austin

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 2 and 19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 and 20-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date See Continuation Sheet
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :07/25/2005, 10/26/2005, 11/15/2008, 12/05/2005, 05/18/2006.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 11, the applicants recite, "wherein forwarding the user command comprises forwarding...after the user command is executed." This is inconsistent with claim 9, which claim 11 depends, because claim 9 recites, "relative to receiving the user command, concurrently forwarding the user command from the viewer appliance." It is unclear how the applicant concurrently forwards the command upon receiving the command, and also waits until the command is executed before forwarding the command. Therefore the claim is vague and indefinite. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 3-18 and 20-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Matz et al. (US 7,212,979).

Regarding claims 1, 3, 18 and 25, Matz et al. ("Matz") teaches a system for capturing user commands from a viewer that are related to viewing content (Fig. 1), comprising:

a reception mechanism located at a premises of a viewer for receiving user commands (Fig. 1—124; col. 6, lines 23-27);

a transfer mechanism located at the premises of the viewer (Fig. 1—120, 124; col. 6, line 28—transmitted via a processor), the transfer mechanism concurrently forwarding the user commands relative to the reception mechanism receiving the user commands, the transfer mechanism concurrently forwarding the user commands to a component located remotely from the premises of the viewer (col. 6, lines 26-30); and

a control mechanism that executes the user commands received by the reception mechanism to control an aspect of the content being provided to the viewer (col. 6, lines 40-44—"channel up" and "channel down").

Regarding claim 4, Matz teaches wherein concurrently forwarding the user command comprises concurrently forwarding the user command to a storage device (Fig. 1—128 and 132; col. 6, lines 61-62—subscriber content-choice database; col. 7, lines 45-51—subscriber information database).

Regarding claim 5, Matz teaches matching the user command to a present context and concurrently forwarding the matching to the storage device (col. 6, lines 45-62; col. 8, line 52-col. 9, line 14).

Regarding claim 6, Matz teaches determining a result of the user command relative to a present context and concurrently forwarding the result to the storage device (col. 6, lines 45-62; col. 8, line 52-col. 9, line 14—determine category).

Regarding claims 7 and 16, Matz teaches wherein receiving the user command at the viewer appliance comprises receiving the user command at a set-top box (Fig. 1—Set-top box 124), and wherein forwarding the user command comprises forwarding the user command from the viewer appliance to a video control system (Fig. 1—Cable Operator Head-end 102).

Regarding claim 8, Matz teaches generating targeted advertising based upon the stored information related to the user command (col. 12, line 63-col. 13, line 11—targeted advertisement).

Regarding claim 9, Matz teaches a method of capturing user commands from a viewer that are related to viewing content, comprising:

receiving a user command at a viewer appliance at a premises of the viewer (Fig. 1—124; col. 6, lines 23-27);

relative to receiving the user command, concurrently forwarding the user command from the viewer appliance to a component located remotely from the premises of the viewer (col. 6, lines 26-30; Fig. 1—120, 124; col. 6, line 28—transmitted via a processor);

executing the user command to alter an aspect of the content being viewed by the viewer (col. 6, lines 40-44—"channel up" and "channel down"); and sending an indication that the user command has been executed (col. 6, lines 31-44—clickstream data sent to the head-end).

Regarding claim 10, Matz teaches wherein executing the user command comprises switching from one video stream to another video stream being provided to the premises of the viewer (col. 6, lines 40-44—"channel up" and "channel down").

Regarding claim 11, Matz teaches wherein forwarding the user command comprises forwarding the user command to a storage device after the user command is executed (col. 6, lines 26-30).

Regarding claim 12, Matz teaches matching the user command to a present context and including the matching in the user command that is forwarded (col. 6, lines 40-44—date-time stamp).

Regarding claim 13, Matz teaches wherein matching the user command to a present context comprises matching the user command to a current time when the user command is received (col. 6, lines 40-44—date-time stamp).

Regarding claim 14, Matz teaches determining the result of the user command relative to a present context and including the result in the user command that is forwarded (col. 6, lines 26-44—date-time stamp).

Regarding claim 15, Matz teaches wherein determining the result of the user command comprises determining a change to a new video stream relative to the present context (col. 6, lines 26-44—“channel up” and “channel down” actions stored with a date-time stamp).

Regarding claim 17, Matz teaches choosing content based upon the user command (col. 6, lines 40-44—“channel up” and “channel down” actions read on choosing content).

Regarding claim 20, Matz teaches wherein the reception mechanism and the transfer mechanism are included in a set top box (Fig. 1—124; col. 6, lines 26-30).

Regarding claim 21, Matz teaches wherein the control mechanism is included in the set top box (Fig. 1—Set-top box 124; col. 6, lines 26-30).

Regarding claim 22, Matz teaches wherein the transfer mechanism concurrently forwards the user commands to a video control system located remotely from the premises of the viewer (Fig. 1—Cable Operator Head-end 102; col. 6, lines 26-30).

Regarding claim 23, Matz teaches a method of capturing a user command from a viewer that is related to viewing content, comprising:

capturing the user command at the premises of the viewer (col. 6, lines 26-27);
and

continuing to store information related to the user command at the premises of the viewer after the user command has been executed (col. 7, lines 22-25).

Regarding claim 24, Matz teaches executing the user command at the premises of the viewer (col. 6, lines 40-44—"channel up" and "channel down").

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelton Austin whose telephone number is (571) 272-9385. The examiner can normally be reached on Monday through Thursday from 8:00-5:30. The examiner can also be reached on Fridays from 9:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant, whose telephone number is (571) 272-7294, can be reached

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on Monday through Friday from 7:30-5:00. The supervisor can also be reached on alternate Fridays from 9:00-4:00. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Shelton Austin

/Christopher Grant/
Supervisory Patent Examiner, Art Unit 2623